

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

In re:)	Chapter 11
)	
EASTERN LIVESTOCK CO., INC.)	Case No. 10-93904-BHL-11
)	
Debtor.)	Judge Lorch
_____)	

**MOTION FOR RELIEF FROM STAY
AND ABANDONMENT OF PROPERTY**

Republic Bank & Trust Company (“Republic”), a secured creditor of the Debtor, Eastern Livestock Co., LLC (the “Debtor”), moves the Court (the “Motion”), pursuant to 11 U.S.C. §§ 362(d) and 554, to terminate the automatic stay as to, and abandon from the Debtor’s estate, the real property commonly known by its address at 135 West Market Street, New Albany, IN, 47150, and more particularlry described on Exhibit A (the “Property”). In support of its Motion, Republic states as follows:

1. On December 6, 2010 (the “Petition Date.”), the petitioning creditors filed an involuntary petition under chapters 3 and 11 of the Bankruptcy Code commencing the above-captioned case against the Debtor.
2. The Motion seeks relief pursuant to 11 U.S.C. §§ 362 and 554 and is a contested matter within the meaning of Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure.
3. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (G) and (O).
4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157(a), and venue is proper pursuant to 28 U.S.C. § 1409.

5. Republic holds a claim against the Debtor evidenced by a Commercial Promissory Note dated October 16, 2006, given to Republic by the Debtor in the original amount of \$661,000.00 (the "Note"), a copy of which is attached as Exhibit B.

6. To secure the Debtor's obligations to Republic under the Note, the Debtor executed and delivered to Republic a Commercial Real Estate Mortgage also dated October 16, 2006 (the "Mortgage"), in which the Debtor granted to Republic a lien against the Property, which lien was perfected by recording of the Mortgage in the office of the Floyd County, Indiana Clerk as Document Number 200613689, a copy of which is attached as Exhibit C.

7. To further secure the Debtor's obligations under the Note, Debtor, which holds the Property by deed in its former name, Easter Livestock Co. Reorganization LLC, executed and delivered to Republic a hypothecation agreement pledging the Property to Republic, a copy of which is attached as Exhibit D.

8. The Debtor is in default of its obligations under the Note for, among other things, non-payment of the installment due and payable on November 16, 2010. Republic accelerated the debt evidenced by the Note and issued a notice of default and to the Debtor on November 23, a copy of which is attached as Exhibit E.

9. The Debtor is also in default of its obligations under the Note for non-payment of the second installment of *ad valorem* real property taxes for 2009 due as of December 10, 2010 (the "Delinquent Taxes"). Republic has, as it is entitled to do under the terms of the Mortgage, paid the Delinquent Taxes in the amount of \$6,057.32 to the Floyd County Treasurer.

10. As of the petition date, the Debtor was in debt to Republic in an amount not less than \$609,762.00, plus costs and fees which continue to accrue, plus accruing interest at the default rate of 11.190% per annum, plus the amount of the protective advance for payment of the

Delinquent Taxes, all as provided under the Note and Mortgage.

11. The Property is of inconsequential value or benefit to the estate because the estimated 90-day liquidation value of the Property of \$470,000.00 is less than the Debtor's debt to Republic. For that reason, and because the Debtor is not paying the Note and is not paying the taxes on the Property as they become, Republic's interest is not adequately protected and cause exists pursuant to 11 U.S.C. § 362(d) to terminate the automatic stay.

12. Accordingly, the Court should enter the tendered order terminating the automatic stay as to the Property and enter and order abandoning the property from the Debtor's estate so that Republic may pursue its right to enforce the Mortgage in state court.

WHEREFORE, Republic Bank & Trist Company moves the Court to enter an order terminating the automatic stay and abandoning the Property, and granting such other relief as appropriate.

/s/Allen L. Morris

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COUNSEL FOR CREDITOR,

REPUBLIC BANK AND TRUST COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2010, a copy of the foregoing Motion for Relief From Stay and Abandonment was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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